

APPEAL NO. 040672
FILED MAY 17, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 6, 2004. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the second quarter. The claimant appealed, arguing that the hearing officer's determination is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

It is undisputed that the claimant sustained a compensable injury on _____. A Decision and Order dated November 14, 2000, reflects that on _____, the claimant tripped on a chair and fell to the concrete and sustained injuries to his neck, shoulder, head, left knee, left arm, and groin, and that the claimant's compensable injury of _____, extends to the cervical area. The parties stipulated that the claimant's impairment rating is 29%; that the claimant did not elect to commute any portion of his impairment income benefits; and that the qualifying period for the second quarter of SIBs began on August 13 and continued through November 11, 2003.

Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) sets out the eligibility requirements for SIBs. The claimant contended that he had a total inability to work. The direct result determination was not appealed. Rule 130.102(d)(4) provides that the statutory good faith requirement may be met if the employee:

has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work[.]

At issue here is whether the claimant provided a narrative report, which specifically explains how the injury causes a total inability to work. The hearing officer found that the narrative reports from Dr. L did not specifically explain how the injury causes a total inability to work, and concluded that the claimant was not entitled to SIBs for the second quarter. Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The claimant comments in his appeal that the hearing officer made a finding on an extent-of-injury issue that was not before him. We recognize that the hearing officer had to decide the nature of the injury to decide this case, however, we do not read the hearing officer's Finding of Fact No. 8 as limiting the injury or determining the extent of injury. We perceive no error.

The hearing officer's decision and order is affirmed.

The true corporate name of the insurance carrier is **PACIFIC EMPLOYERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN MOUNTAIN
ACE USA
6600 EAST CAMPUS CIRCLE DRIVE, SUITE 200
IRVING, TEXAS 75603.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Edward Vilano
Appeals Judge